IV. THE COMPETITIVE CHECKLIST:

A. Checklist Item No. 1: Interconnection

Checklist item 1 requires BellSouth to provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(i)." *See* 47 U.S.C. 271(c)(2)(B)(I). Section 251(c)(2) imposes upon incumbent LECs "[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network...for the transmission and routing of telephone exchange service and exchange access." *See* 47 U.S.C. 251(c)(2)(A). Such interconnection must be: (1) provided "at any technically feasible point within the carrier's network; (2) equal in quality to that provided by the incumbent to itself; and (3) provided on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of the agreement and the requirements of section 251 and 252. *See* Second Louisiana Order, ¶61. Technically feasible methods of interconnection include, but are not limited to, physical and virtual collocation at the premises of an ILEC. *Id.* at ¶62. This checklist item generally covers interconnection trunking and collocation, and Staff will address each area.

1. Nondiscriminatory Access to Interconnection Trunks

In its *Second Louisiana Order*, the FCC concluded that BellSouth had demonstrated that it has a legal obligation to provide interconnection in accordance with its rules. *See* Second Louisiana Order, fn. 210. BellSouth's actions and performance are consistent with its previous showing, and nothing material has changed since 1998 that should cause either the FCC or this Commission to reach a different conclusion than it reached in 1998. Moreover, to carry traffic between BellSouth and CLEC locations, BellSouth has provisioned approximately 409,933

interconnection trunks from CLEC's switches to BellSouth's switches as of February 28, 2001 within the BellSouth region. *Milner Affidavit*, ¶ 16.

The FCC also concluded, however, that BellSouth had not made a *prima facie* showing that it was providing interconnection equivalent to the interconnection it provides itself. *Second Louisiana Order*, ¶74. The evidence in this proceeding demonstrates that BellSouth is providing interconnection trunks to CLECs in a manner equivalent to the interconnection it provides to itself. No CLEC that commented in this proceeding seriously contends otherwise. BellSouth follows the same installation process for CLEC interconnection trunks as it does for itself. *Milner Affidavit*, ¶19. To ensure nondiscrimination, BellSouth provisions CLEC trunks using the same equipment, interfaces, technical criteria and service standards that are used for BellSouth's own trunks. *Milner Affidavit*, ¶12.

a. Trunk Blockage and Delays. Most of the comments received from CLECs in this proceeding involved issues relating to trunk performance. Both AT&T and NewSouth raise issues relating to trunk blockage and alleged delays in provisioning. Specifically, NewSouth claims that BellSouth does not order and provision interconnection trunks in a timely fashion in accordance with NewSouth's forecasts of need *(NewSouth Comments, pp. 3-4)* and that BellSouth does not do an adequate job in meeting its responsibility to monitor local traffic flow and identify blockages or deflections. *(NewSouth Comments, pp. 8-11)*. These issues were raised by NewSouth at the CLEC Collaborative and discussed at length. To assist in resolution of this problem, the parties, including NewSouth, agreed to and did submit fresh trunking forecasts to BellSouth. Further, although AT&T was one of the most outspoken critics of BellSouth's performance in this area, AT&T did admit during the collaborative workshops that it did not forecast any need for trunks in Louisiana over the succeeding six-month period.

Additionally, the parties discussed and reached an informal agreement for appropriate procedures to be implemented by BellSouth before disconnection of interconnection trunks due to underutilization of those trunks. We believe that the discussions and actions taken during the collaborative will go a long way towards resolving any such problems in the future.

Rather than weigh the relative merit of the parties' comments concerning specific or isolated trunking problems, Staff believes that this Commission should review the Louisiana CLEC aggregate performance data reported by BellSouth to evaluate whether BellSouth is providing interconnection equal in quality to that which it provides to itself. An analysis of such data is more probative of BellSouth's compliance with checklist item 1, than individual accounts of past problems that may have already been resolved.

Performance results under the Trunk Group Performance Aggregate Measure (MSS Item C.5.1) show that BellSouth met the approved aggregate benchmark for both April (*See* Exhibit AJV-2 dated June 25, 2001, page 19*)* and May (*See* Exhibit AJV-2 dated July 23,2001, *page 10)* 2001. A review of the results for June (*See* Supplemental Exhibit AJV-2, dated August 23, 2001, p. 10) indicates that BellSouth again met the trunk blocking aggregate benchmark. Further, and from a provisioning standpoint, although BellSouth missed the Order Completion Interval (C.2.1) retail analogue in April (p. 16), it met or exceeded it in May (p. 7) 2001. In June, BellSouth again met the Order Completion Interval (C.2.1). From an ordering perspective, the Reject Interval and FOC Timeliness (C.1.3) benchmarks were missed in April (*See* Exhibit AJV-2 dated June 25, 2001,p. 16), but met due to improvement in May (*See* Exhibit AJV-2 dated June 25, 2001,p. 7). BellSouth again met the Reject Interval (C.1.2) and FOC Timeliness benchmark in June. Additionally, the standard for FOC and Reject Response Completeness was met in May. BellSouth again met the benchmark for FOC and Reject Response Completeness in June.

Finally, the MSS reports for May 2001 indicate that BellSouth met 100% of the maintenance and repair measures ("M&R")after demonstrating that they met 80% (8 out of 10) in April. MSS results for June 2001 indicate that BellSouth again met 100% of the M&R measurements. BellSouth met 17 of 20 (85%)of the measurements within the Local Interconnection Trunks category, which is up from 15 of 19 (79%) in May. Staff finds that such performance supports a finding of checklist compliance on Item No. 1.

b. *Pricing.* This Commission set TELRIC-based rates for interconnection in Docket No. U-22022/22093 pursuant to the 1996 Act. Those rates are being updated by this Commission in Docket No. U-24714-A, which is scheduled to conclude in September of this year.

c. *Miscellaneous Issues.* MCI and SECCA raise issues concerning BellSouth's alleged obligation to deliver at its own expense traffic originated on its network to the point of interconnection selected by the CLEC even if that traffic originates in a BellSouth local calling area different from where the CLEC point of interconnection is established. *Argenbright Affidavit,* pp. 4-8; *Gillan Affidavit*, p. 9. This issue is pending before the Commission in several arbitrations, including the MCI arbitration (Docket No. U-25350), the AT&T arbitration (Docket No. U-25264) and the Sprint arbitration (Docket No. U-25373). Staff believes that this issue is most appropriately resolved in the pending arbitrations. Further, apparently the FCC does not believe this issue to be critical to a 271 proceeding, given the fact that it has not required other ILECs to assume this obligation in other 271 proceedings. Moreover, Staff notes that Sprint has recently advised the Commission by letter dated July 11, 2001 that this issue has been resolved between BellSouth and Sprint and that AT&T has recently advised the Commission by letter dated July 25, 2001 that this issue has been resolved between BellSouth and AT&T. In response

to Staff's request BellSouth filed into the record of this proceeding the terms and conditions of the interconnection agreement that incorporate the resolution of this issue with Sprint and AT&T. *See* BellSouth Comments, Exh. "A".

WorldCom also argues that WorldCom should not be required to segregate local, intraLATA toll and transit traffic into separate trunk groups (*Argenbright Affidavit*, pp. 4-8); that BellSouth inappropriately requires CLECs that are providing terminating access service for IXCs to route calls to access tandems (*Argenbright Affidavit*, pp. 10-12); and that BellSouth should provide and use 2-way trunking at WorldCom's request. Each of these issues is pending in WorldCom's arbitration and Staff believes that they are most appropriately resolved in that proceeding.

2. Collocation

The provision of collocation is an essential prerequisite to demonstrating compliance with checklist item 1. The FCC concluded in the *Second Louisiana Order* that BellSouth "fails to make a *prima facie* showing that it can provide collocation on terms and conditions that are 'just, reasonable, and nondiscriminatory' in accordance with section 251(c)(6)." *Second Louisiana Order* at ¶65. In its second filing at the FCC, BellSouth relied on its SGAT, which referred to terms and conditions incorporated into a BellSouth Collocation Handbook. The FCC concluded that this showing failed to demonstrate *legally binding* terms and conditions for collocation, including binding provisioning intervals. *Id.* at ¶66-72. In addition, the FCC questioned the reasonableness of BellSouth's non-binding provisioning intervals. It is Staff's opinion that both of these concerns have been adequately addressed.

a. Legally Binding Terms and Conditions. Staff believes that BellSouth has clearly demonstrated herein that it provides legally binding terms and conditions for collocations.

BellSouth provides physical and virtual collocation consistent with Sections 271 and 251 of the Act and with the FCC's Orders in legally binding interconnection agreements. *See* Interconnection Agreement Between BellSouth and Stratos Telecom, Inc., Att. 4, BellSouth's Original Comments. In addition, BellSouth has filed a collocation tariff setting forth legally binding terms and conditions. *Louisiana Access Services Tariff*, Section E20 (approved December 13, 2000). BellSouth's SGAT filed in this proceeding also incorporates these same terms and conditions. AT&T witness Turner alleges that BellSouth can use its Collocation Handbook to unilaterally alter the terms and conditions of interconnection agreements and the collocation tariff. Staff disagrees. The terms and conditions of the parties' interconnection agreements or the collocation tariff control BellSouth's provision of collocation and if AT&T or any other party believes that BellSouth has violated those terms and conditions, appropriate enforcement action should be taken.

b. Binding Intervals. Further, this Commission has adopted binding provisioning intervals for collocation and established appropriate benchmarks. Specifically, the Commission ordered an Average Response Time Measure and benchmark of 95% within 10 calendar days for space availability and 95% within 30 calendar days for a full price quote. *See* General Order, p. 10, October 9, 2000, Docket U-22252-C. It also ordered an initial Average Arrangement Time measure and benchmark for normal physical and virtual collocation arrangements of 120 calendar days; and for extraordinary arrangements, 180 calendar days. After a period of six months (or effective April 9, 2001), the benchmarks were increased to 95% within 90 calendar days for ordinary physical and virtual arrangements and 95% within 120 calendar days for extraordinary arrangements. On March 15, 2001, BellSouth filed a modification to its

collocation tariff to shorten its provisioning intervals as specified in the General Order, to be effective on April 9, 2001.

BellSouth's performance data indicates that it is meeting the Commission's ordered benchmarks. As contained in the three separate collocation reports (E.1.1.1 through E.1.3.2): 1) Average Response Time, 2) Average Arrangement Time and 3) Percent Due Dates Missed, BellSouth met the approved benchmarks for 5 of the 6 sub-metrics with CLEC activity in April (p. 14) (83.3% of all measures) and met all 9 in May (p. 5) (100% of all measures). In June, BellSouth again met all (100%) measurements within the collocation category.

WorldCom witness Bomer notes that this Commission has directed Staff to consider a separate interval for cageless physical collocation in its October 9, 2000 General Order. Staff has received comments from all interested parties on this issue.

BellSouth's position is that the presence or absence of a cage is not a driving factor in the time needed to provision a collocation arrangement and that the interval for cageless physical collocation should be the same as for caged collocation. CLECs generally contend that the interval should be 60 days. Staff recommends that the provisioning interval for cageless collocation should be 60 calendar days for ordinary arrangements and 90 calendar days for extraordinary arrangements. Such intervals shall run from date of firm order. The terms "ordinary" and "extraordinary" shall have the same meaning as is ascribed to them in General Order dated October 9, 2000. CLECs are encouraged to provide BellSouth forecasts, but are not required to do so. Finally, Staff recommends that BellSouth be permitted to file for waiver of the applicable benchmarks in appropriate circumstances.

c. Pricing AT&T, MCI, Xspedius, and NewSouth all raise concerns about BellSouth's collocation rate elements, including particularly its security and power costs.

BellSouth offers rates for collocation that it contends are based on TELRIC methodology. These rates are contained in Attachment A to BellSouth's SGAT and in BellSouth's interconnection agreements. *See* Stratos Agmnt., Att. 4, BellSouth's Original Comments. BellSouth's rates are subject to true-up after this Commission's resolution of Docket No. U-24714-A, which this Commission expects to resolve in September of 2001. Staff notes that AT&T and MCI are parties to that cost proceeding, although Xspedius and New South elected not to participate. Staff believes that Docket No. U-24714-A is the appropriate forum for resolution of these issues.

However, the Staff does find it necessary to address the issue of whether CLEC security costs should be allocated on a per head basis or square footage basis. This issue is being addressed in this proceeding because the Staff did not address this issue in the cost proceeding. Based upon the evidence presented, Staff recommends that the Commission direct BellSouth to allocate CLEC security costs on a square footage basis.

In its Proposed Recommendation, Staff directed BellSouth to "find a way to allow CLECs to purchase smaller units of power (i.e., amps)." *Staff Proposed Recommendation, p. 30.* In response, BellSouth states that it "already allows CLECs options that include purchases of power in very small units." *BellSouth Comments, p. 7.* Specifically, BellSouth states that it offers CLECS three options for ordering power to a collocation arrangement. First, a CLEC may request power from BellSouth's Battery Distribution Fuse Bay ("BDFB") in power increments that range as low as 10 amps up to 60 amps, or any combination thereof, to each piece of equipment in its collocation space. BellSouth states that this is by far the most common means by which CLECs request power for their collocation arrangements. *Id.* Second, a CLEC may install its own BDFB in its collocation space and request power from BellSouth's BDFB in increments that range from 10 to 60 amps. Third, a CLEC may install its own BDFB inside its

collocation space and order power directly from BellSouth's main power board. A standard 225 amp power feed is required in this scenario to connect the CLEC's BDFB with BellSouth's main power board. BellSouth claims, and Staff agrees, that the use of the standard 225 amp power feed is necessary to comply with specific National Electric Safety Code requirements for electrical system coordination (Article 240-12). *Id.* at p.8.

Given that BellSouth allows CLECs to purchase power in increments of as little as 10 amps, Staff recommends that the Commission find BellSouth's collocation power options to be appropriate. It is unclear why a CLEC would elect to obtain power directly from BellSouth's main power board at a minimum of 225 amps, if the CLEC's equipment will actually use substantially less power. Any CLEC that is currently purchasing 225 amps directly from BellSouth's main power board has the option of reconfiguring such power in order to purchase smaller increments from BellSouth's BDFB. Where a CLEC decides to reconfigure its collocation power so as to purchase smaller increments of power from BellSouth's BDFB, it is Staff's opinion that the CLEC should submit an application to BellSouth regarding such reconfiguration and BellSouth should be ordered to respond to the application and permit the conversion within seven (7) calendar days. Staff further recommends that BellSouth waive any application fee or charges that are otherwise due to accomplish this conversion. The actual work to accomplish the conversion would be performed by a certified vendor hired by the CLEC. Such work should include removal of the cabling between the CLECs BDFB and BellSouth's main power board. Further, the CLEC must follow applicable National Electric Safety Code standards for running power to BellSouth's BDFB.

Further, Staff recommends that the Commission order BellSouth to provide CLECs with an additional option by allowing CLECs to purchase power directly from an electric utility

company. Under such an option, the CLEC would be responsible for contracting with the electric utility company for their own power feed and meter, and would be financially responsible for purchasing all equipment necessary to accomplish the arrangement, including inverters, batteries, power boards, bus bars, BDFBs, backup power supplies and cabling. The actual work to install this arrangement would be performed by a certified vendor hired by the CLEC. Such CLEC must comply with all applicable safety codes, including the National Electric Safety Codes, in installing this power arrangement. BellSouth shall waive any application fee or charge that would otherwise be due from a CLEC that decides to reconfigure any existing collocation power arrangement so as to purchase power directly from an electric utility company as provided herein.

Staff understands that power costs represent a significant cost to CLECs, and that the FCC has Common Carrier Docket No. 01-140 open to consider issues relating to DC power costs. Staff intends to monitor that proceeding and at its conclusion to consider any reasonable proposals for modification in this area.

d. Miscellaneous Issues. WorldCom and AT&T allege that BellSouth does not provide adjacent and shared collocation consistent with the FCC's orders. WorldCom witness Bomer alleges that the FCC's orders require BellSouth to provide DC power to adjacent collocation spaces, and that BellSouth refuses to do so. *Bomer Affidavit*, ¶¶21-25. This is an issue that AT&T witness Jeffrey King also raised in the pending cost docket. Such an issue should have been raised by MCI in its arbitration of a new interconnection agreement with BellSouth in Docket U-25350, rather than this proceeding. Although this issue has been raised in the cost docket, Staff believes it is more appropriately addressed here, and Staff recommends

that BellSouth be required to provide DC power to adjacent collocation sites where technically feasible, as that term has been defined by the FCC.

Mr. Bomer also contends that a CLEC must be permitted to verify BellSouth's assertion that dual entrance facilities are not available. *See* Bomer Affidavit, ¶¶32-36. Nothing in the FCC's rules or this Commission's Orders squarely addresses this issue, which appears to involve the type of "new and unresolved interpretive dispute about the precise content of an ILEC's obligations to its competitors, disputes that [the FCC's rules] have not yet addressed and that do not involve per se violations of self-executing requirements of the Act." *Texas Order*, ¶23. We agree with the FCC that a 271 proceeding is not the appropriate forum for addressing such issues which are better resolved in arbitrations or generic dockets. In this regard, we note that MCI has a pending arbitration before this Commission in which it apparently chose not to arbitrate this issue. We question why MCI should raise an issue in this proceeding that it chose not to raise before this Commission in its arbitration proceeding.

Staff finds that BellSouth meets the requirements of Checklist Item No. 1.

B. Checklist Item No. 2: Unbundled Network Elements

Checklist item 2 obligates BellSouth to provide access to UNEs in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Act. Sections 251(c)(3) and 252(d)(1) in turn require BellSouth to provide "nondiscriminatory access to network elements" on an "unbundled basis at any technically feasible point" and at "rates, terms and conditions that are just, reasonable, and nondiscriminatory."

The FCC has focused its evaluation of this checklist item on "whether [the BOC] provides access to OSS and to combinations of UNEs in accordance with section 251(c)(3) and

our rules." *See* Texas Order, ¶¶ 91-92. The FCC reserves its analysis of specific unbundled network elements for the separate discussions that deal with specific network elements, i.e., unbundled local loops (checklist item 4), unbundled local transport (checklist item 5) and unbundled local switching (checklist item 6). *See* Second Louisiana Order, ¶¶ 80-84; *Texas Order*, ¶ 92. As part of its statutory obligation to provide nondiscriminatory access to OSS functions, a BOC must provide access that sufficiently supports each of the three modes of entry envisioned by the 1996 Act – competitor-owned facilities, unbundled network elements, and resale. *Texas Order* ¶ 93.[7]

The FCC has articulated repeatedly the legal standard by which it evaluates the sufficiency of a BOC's deployment of OSS. First, it must determine whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting CLECs to understand how to implement and use all of the OSS functions available to them. Next, it determines whether the OSS functions that the BOC has deployed are "operationally ready," as a practical matter. *See* Second Louisiana Order, ¶85; see also In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 87 ("*New York Order*"). For OSS functions with a retail analogue, the BOC must provide access that permits CLECs to perform these functions in "substantially the same time and manner" as the BOC." *Second Louisiana Order*, ¶87; *Texas Order*, ¶94. For OSS functions

[7] The FCC has stated that BellSouth's OSS are themselves a network element that it must unbundle and provide to competing CLECs. In addition, nondiscriminatory access to OSS is crucial to BellSouth's compliance with a number of checklist items, including the requirement that it provide nondiscriminatory access to specific network elements such as local loops, local transport and local switching, as well as the requirement that it provide nondiscriminatory access to resold services. In short, the requirement that BellSouth provide nondiscriminatory access to its OSS pervades the checklist requirements. *See Second Louisiana Order*, ¶ 84.

without a retail analogue (such as ordering and provisioning of unbundled network elements), the BOC must offer access "sufficient to allow an efficient competitor a meaningful opportunity to compete." *Texas Order,* ¶95. A "meaningful opportunity to compete" is assessed by a review of applicable performance standards. *Second Louisiana Order,* ¶87*; Texas Order,* ¶95.

To meet the legal standard, the FCC has developed a two-step test. Under the first inquiry, a BOC "must demonstrate that it has developed sufficient electronic interfaces (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions." *Texas Order,* ¶97. Evidence of this standard includes the provision of specifications necessary for CLECs to build systems to communicate with the BOC's systems; disclosure of internal business rules and formatting information to ensure the CLEC's orders are processed efficiently; and proof of sufficient capacity to accommodate both current demand and projected demand for competing carrier's access to OSS functions. *Id.*

Under the second part of this test, the FCC examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes. The FCC has repeatedly emphasized in this regard that "[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage." *Second Louisiana Order,* ¶¶86 & 92 ("The most critical aspect of evaluating a BOC's OSS is the actual performance results of commercial usage"); *See also Texas Order,* ¶98; *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket 00-217, Memorandum Opinion and Order, Rel. January 22,

2001, ¶36 ("*Kansas/Oklahoma Order*"). Moreover, the FCC has expressly stated that in assessing operational readiness for Louisiana's application, BellSouth may rely on commercial usage of its OSS in Louisiana and other states because its OSS "are essentially the same throughout its region." *Second Louisiana Order,* ¶86; *Kansas/Oklahoma Order*, ¶¶108-9 (evidence that an ILEC's OSS is the same in several states allows a commission to broaden the scope of its review and look to evidence of an ILEC's performance in other states). The FCC has stated further:

> We note ... that the Commission has adopted the practice of reviewing evidence from other applications and states in previous section 271 proceedings. For instance, in the First Louisiana Order we used our evaluation of BellSouth's OSS in South Carolina as a "starting point" for our evaluation of its OSS in Louisiana. Furthermore, in the three BellSouth section 271 orders, we found performance measurements covering performance in BellSouth's entire region to be relevant to our consideration of the individual applications. Such evidence was relevant, we explained, because BellSouth had adequately shown that it used essentially the same OSS throughout its 9-state region.

Kansas/Oklahoma Order, ¶38.

In the *Second Louisiana Order,* the FCC found that BellSouth's second Louisiana application demonstrated "important progress toward meeting the statutory requirements" of checklist item 2. The FCC nevertheless concluded (1) that BellSouth failed to demonstrate that it is providing nondiscriminatory access to the pre-ordering function of OSS; and (2) that the performance measurements indicated that there were serious problems with BellSouth's ordering interface. *See* Second Louisiana Order, ¶¶91-93.

Consistent with FCC precedent, the most persuasive evidence that BellSouth is performing satisfactorily is information gleaned from actual competitive usage in Louisiana. *See*, e.g., Kansas/Oklahoma Order, ¶105; New York Order, ¶89. Such information by itself can

demonstrate that a BOC is providing CLECs a meaningful opportunity to compete. Additionally, that data can be supplemented by carrier-to-carrier testing and a third party audit.

As the Department of Justice has explained, use of third-party data from another state as a further supplement to these other forms of evidence is a "sensible and efficient approach that can avoid the delay and expense of redundant testing." Department of Justice Evaluation at 28, *Kansas/Oklahoma Order,* ¶118. The data could be used as an independent basis for compliance, corroborating evidence or one of two or three other sources of information viewed collectively. It would be fundamentally contrary to the pro-competitive purposes of the 1996 Act to delay long-distance entry -- and tens, if not hundreds, of millions of dollars of consumer benefit -- simply so that another duplicative test of the same systems can be undertaken in Louisiana that would serve the same limited purpose.

In this instance, moreover, this Commission should be particularly confident about the integrity and reliability of the Georgia test of the operational systems that serve Louisiana. That test was both broad and extremely thorough, including some 1171 measures of performance; it involved a military style "test until you pass" philosophy; it was blind to the extent reasonably possible; and it was conducted by a highly regarded and independent firm under the auspices of the Georgia Commission. *See* Stacy Affidavit, ¶10; Varner Affidavit, ¶ 10; *New York Order,* ¶¶ 96-100 (relying on similar factors in finding a third-party test persuasive). Staff has also been given an extensive opportunity to evaluate this test and confirm its reliability.

Of course, for the Georgia test, as well as other state data, to be relevant, BellSouth's processes and systems must be the "same," as that word is used in this context. The FCC has determined that, as to electronic OSS processes, a BOC may demonstrate "sameness" by showing that CLECs either use the identical system across different states or that CLECs use

separate systems that "reasonably can be expected to behave the same way." *Kansas/Oklahoma Order*, ¶111. As to manual processes, the FCC has emphasized evidence showing that those components operate pursuant to a common organizational structure, common methods and procedures, and common training. *See Id.* ¶113. As discussed and found above, BellSouth has made precisely those showings in these cases.

Staff finds that, in addition to the FCC's prior findings in this regard, BellSouth has provided substantial evidence in this proceeding either that there is a shared use of a single OSS, or, it relies in part on separate systems, that the OSS can be reasonably expected to behave the same in all states. *Kansas/Oklahoma Order*, ¶¶110-116.

Where the systems are separate, BellSouth must demonstrate that its OSS reasonably can be expected to behave the same way in all three states. BellSouth meets each of these criteria. BellSouth has a single set of OSS that operate on a region-wide basis. *Stacy Affidavit*, ¶309; *Ainsworth Affidavit*, ¶¶ 4-25; *Scollard Affidavit*, ¶ 39; *Heartley Affidavit*, ¶ 4. There is a common set of processes, business rules, interfaces, systems and personnel throughout all nine states. *Id.* All electronic interfaces used by the CLECs to access BellSouth's OSS are the same throughout the region – there is only one LENS, EDI, TAG, RoboTAG™, TAFI and ECTA. *Stacy Affidavit*, ¶ 305. For manual work in the centers, work is divided by CLEC account and product type. The work is not divided or handled according to the state in which the ordered service is to be provided. *Ainsworth Affidavit*, ¶ 10. For the provisioning and maintenance and repair, the personnel involved in these functions are trained in such a way that they will generally do their jobs in the same manner throughout the region. *Heartley Affidavit*, ¶ 4. There are common centers that coordinate the field work activities for CLEC orders, and the field personnel involved in these functions access the same systems and utilize the same processes in

all states. *See* e.g. Heartley Affidavit, ¶ 9. Moreover, there is a common organizational structure for these functions. *Id.* at ¶8. Finally, BellSouth has provided the Commission with an attestation by PricewaterhouseCoopers, LLP of the regionality of BellSouth's OSS. *See* Stacy Reply Affidavit, ¶272, Exhibits OSS-82 and OSS-83. As Mr. Stacy stated, this attestation represents the highest level of assurance that can be provided on an assertion and results in an opinion on the part of PwC that the assertions presented are fairly stated in all material respects. *Stacy Reply Affidavit,* ¶271. In Staff's opinion, this attestation tends to support the accuracy of BellSouth's claim to operate its OSS on a region-wide basis.

In contrast, AT&T claims that for purposes of establishing regionality, the FCC permits a state to rely only on data from another state that has received section 271 approval by the FCC and that no BellSouth state has received such approval. *Bradburry Affidavit*, ¶27. In contrast, BellSouth argues, and Staff agrees, that the fact that neither the Georgia Commission nor the FCC has ruled in the Georgia proceeding is irrelevant to whether the evidence in the record of this proceeding shows that BellSouth's OSS are regional. *See Cox Reply Affidavit*, ¶10. It is Staff's considered opinion that the best evidence of nondiscriminatory access to BellSouth's OSS is actual commercial usage in Louisiana. This Commission may look to the Georgia test if it believes that evidence in addition to commercial usage of OSS in Louisiana is necessary. Thus, this Commission can rely upon evidence of the Georgia test and performance where commercial volumes may not exist in Louisiana.

AT&T also claims that if the performance from state to state are different, then the processes must be different as well. *Bradbury Affidavit*, ¶¶35-37. Staff rejects this contention. AT&T's argument ignores the fact that numerous other factors beyond BellSouth's control and unrelated to the actual OSS processes can cause differences in overall performance from state to

state. Such other factors may include the weather, topology or local regulations governing such processes as excavation. *See* Heartley Affidavit, ¶¶32-36; Heartley Reply Affidavit, ¶5.

AT&T also claims that preordering and ordering performance is not the same from state to state because BellSouth's legacy systems are not the same. *Bradbury Affidavit*, ¶¶40-42. Further, AT&T claims that because organization of network work groups is divided by state, performance data from one state is not an accurate measure of performance in another state. *Id.* at ¶43. Finally, AT&T challenges the "sameness" of BellSouth's billing data since it is derived from eleven (11) different data centers. *Id.* at ¶44.

In response BellSouth states that its legacy systems use a single version of each application, which handled CLEC and BellSouth service orders on a nondiscriminatory basis throughout the nine states in BellSouth's region. While this single version of each legacy application is loaded onto two separate mainframes that are at different locations and serve different areas, those mainframes run the same software systems, and updates of both systems are made within days of each other. *Heartley Affidavit*, ¶22; *Heartley Reply Affidavit*, ¶7. Further, a CLEC in Louisiana uses the same interfaces for access to the same BellSouth OSS as a CLEC in any other state in BellSouth's region. "There is only one TAG, RoboTAG, EDI, LENS, TAFI, ECTA, ODUF, EODUF, and ADUF." *Stacy Reply Affidavit*, ¶281.

Regarding the geographic division of workgroups, BellSouth counters that such workgroups are part of the same organizational structure, all report back to the same corporate officer, are managed under the same guidelines, and undergo the same training. *Heartley Affidavit*, ¶¶4-19 & Attachs. AH-1-3; *Heartley Reply Affidavit*, ¶9. Further, BellSouth explains the "sameness" or regionality of its Local Carrier Service Centers (LCSCs) that handle pre-ordering and ordering functions for CLECs. There are three LCSC locations that utilize the same

methods and procedures, including the same physical facilities and the same personnel following the same procedures, for conducting CLEC pre-ordering and ordering functions. *Ainsworth Affidavit,* ¶10.

Finally, BellSouth points out that AT&T's claim regarding 11 separate data centers for billing purposes is simply incorrect. "BellSouth processes all of the information to create bills for CLECs in the same two data centers used to produce bills for retail customers and inter-exchange carriers. These data centers are located in Birmingham, Alabama and Charlotte North Carolina." *Scollard Reply Affidavit,* ¶9. Further, for billing purposes, BellSouth uses the same physical software for processing transactions in Louisiana that it uses in all other BellSouth states. *Id.* at ¶10.

While AT&T goes to great lengths to identify the differences in BellSouth's systems and processes, Staff tentatively determines that BellSouth has refuted such allegations sufficiently for this Commission to confirm the regionality of BellSouth's OSS.

Further, AT&T makes numerous allegations concerning the integrity of the performance data that BellSouth has submitted in this docket. *See Norris Affidavit.* These allegations range from BellSouth's refusal to discuss data issues including refusal to perform root cause analysis (*Norris Affidavit,* pp. 18-24) to claims of missing data or data that is internally inconsistent or irreconcilable. *Norris Affidavit,* pp. 15-16. In response, BellSouth presented testimony to refute each of the allegations made by AT&T. *See,* e.g., Varner Affidavit, ¶¶ 25-85.

It is Staff's opinion at this time that BellSouth has sufficiently refuted, for purposes of this proceeding, AT&T allegations concerning the integrity of the performance data that BellSouth has filed and on which it relies. Contrary to AT&T claims, the performance data does not need to be subjected to a third-party audit before it may be considered in determining

whether a BOC is compliant with a checklist item. Further, many of the issues raised by AT&T were discussed during the workshops held in Docket No. U-22252-C. It was Staff's opinion then and now that such issues should be addressed during the six-month interim review and/or the third party audit. As Staff has previously stated in the proposed recommendation, this Commission has already ordered that BellSouth's performance data be subjected to a third-party audit, which will coincide with BellSouth's filing of performance data pursuant to the SQM ordered by this Commission in its May 14, 2001 General Order.

The KPMG third-party audit will be conducted with input from any and all interested parties. Any issues that AT&T may have will be fully addressed therein. One of the issues that Staff will be considering in the context of the audit will be the extent to which formal data reconciliation procedures should be imposed upon BellSouth to ensure that each CLEC's performance data is complete and accurate.

1. Pre-Ordering

Pre-ordering is the exchange of information between BellSouth's systems and the CLEC to assist the CLEC in interacting with its end-user customer.[8] Pre-ordering activities enable the CLEC to submit a complete and accurate service request to BellSouth. Commercial usage evidences the fact that CLECs are using BellSouth's pre-ordering interfaces. For example, for January and February 2001, CLECs submitted 688,930 and 933,308 pre-ordering transactions via LENS and TAG, respectively. *Stacy Affidavit*, ¶146.

In the *Second Louisiana Order,* the FCC found that BellSouth did not carry its burden of proving that it provided nondiscriminatory access to OSS pre-ordering functions. Specifically,

[8] Pre-ordering generally includes the activities that a carrier undertakes with a customer to gather and verify the information necessary to formulate an accurate order for that customer. It includes the following functions: (1) street address validation; (2) telephone number information; (3) services and features information; (4) due date information; and (5) customer service record information. *See, e.g., Second Louisiana Order, ¶ 94.*

the FCC found certain deficiencies in BellSouth's pre-ordering interfaces, including that CLECs could not integrate pre-ordering and ordering interfaces and a lack of nondiscriminatory access to due dates. Staff addresses these specific allegations below.

a. Application to Application Interfaces: The FCC has held that a BOC must provide pre-ordering fuctionability through an application-to-application interface to enable CLECs to "conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC." *See* Second Louisiana Order, ¶105; *Texas Order*, ¶14. The FCC criticized BellSouth for not having an "application-to-application" interface in the *Second Louisiana Order* and because the access BellSouth provided CLECs to pre-ordering function was not integrated, as it is for BellSouth's retail operation, with their access to ordering functions. *Second Louisiana Order*, ¶96.

BellSouth currently offers CLECs in Louisiana their choice of electronic interfaces – Telecommunications Access Gateway ("TAG"), RoboTAG, and Local Exchange Navigation System ("LENS"). These interfaces provide CLECs with real time access to the same pre-ordering databases used by BellSouth's retail representatives.

TAG is BellSouth's pre-ordering application-to-application interface, and it has been made available to CLECs since the *Second Louisiana Order*. TAG, which was developed in response to specific requests from mid-sized and large CLECs, provides a standard Application Programming Interface ("API") to BellSouth's preordering, ordering and provisioning OSS. TAG is based on Common Object Request Broker Architecture ("CORBA"), which is one of the industry protocols for pre-ordering. *Stacy Affidavit*, ¶143.

For CLECs who wish to use TAG for pre-ordering, ordering and provisioning but not to develop and maintain their own TAG interface, BellSouth provides RoboTAG ™. RoboTAG

provides a standardized, browser-based interface to the TAG gateway that resides on a CLEC's LAN server, and integrates pre-ordering and ordering with up-front editing. BellSouth made RoboTAG available in November 1999. *Stacy Affidavit*, ¶ 24.

Finally, for those CLECs who have made the business decision not to integrate pre-ordering, ordering and provisioning interfaces with their internal OSS, BellSouth makes available the human-to-machine Local Exchange Navigation System (LENS) interface. LENS is a web-based graphical user interface (GUI). As of January 14, 2000, LENS became a GUI to the TAG gateway. LENS uses TAG's architecture and gateway, and therefore has TAG's pre-ordering functionality for resale services and UNEs, and TAG's ordering functionality for resale services. LENS also uses TAG's ordering functionality for designed and nondesigned unbundled analog loops, digital unbundled loops, and loop/port combinations. *Stacy Affidavit*, ¶ 28.

b. Integration: A BOC has "enabled 'successful integration' if competing carriers may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order form...that will not be rejected by the BOC's OSS systems." *Texas Order*, ¶152. In accordance with the FCC's requirements, BellSouth provides CLECs with all the requirements necessary for integrating the BellSouth interfaces. A CLEC may integrate ordering and pre-ordering functions by integrating the TAG pre-ordering interface with the EDI ordering interface, or by integrating TAG pre-ordering with TAG ordering. *Stacy Affidavit*, ¶¶ 21-22. CLECs have successfully integrated the TAG pre-ordering interface with the EDI and TAG ordering interfaces based on the specifications provided by BellSouth. BellSouth estimates that 6 CLECs have integrated the TAG pre-ordering interface with the EDI interface and 43 CLECs have integrated TAG pre-ordering with TAG ordering. *Stacy Affidavit*, ¶ 22.

AT&T is the only CLEC that provided specific criticisms of BellSouth's access to pre-ordering functions. AT&T witness Bradbury contends that BellSouth does not provide CLECs with parsed Customer Service Record ("CSR") data, and that it fails to supply data to CLECs in a way that would allow CLECs to parse CSR data themselves. *Bradbury Affidavit*, pp. 26-29. Contrary to AT&T's allegations, BellSouth provides CLECs with the ability to parse information on the CSR using the integrateable machine-to-machine TAG pre-ordering interface. *Stacy Reply Affidavit*, ¶83. Indeed, CLECs are able to parse the information to the same level as BellSouth does for itself and CLECs can decide to do additional parsing of information by performing additional programming on their side of the interface. *Id.*

In response to Staff's proposed recommendation, both AT&T and WorldCom submitted comments concerning their ability to parse CSR data. *See* AT&T Comments, p. 22; WorldCom Comments, p.9. It is Staff's understanding that fully parsed CSR functionality is pending in BellSouth's Change Control Process and is scheduled to be implemented by January, 2002. Staff recommends that the Commission ensure that such implementation takes place on January 31, 2002 by instructing Staff to develop in Docket No. U-22252-C a recommended monetary penalty to ensure that the implementation of fully parsed CSR data functionality occurs as scheduled. Such penalties should take effect only after BellSouth has obtained FCC approval to offer interLATA service in Louisiana. Such a penalty should ensure that BellSouth implements this functionality even after receiving interLATA relief.

Staff finds that BellSouth is in compliance with the FCC's requirements by providing CLECs with the same CSR data stream that it provides to its own retail units.

c. Access to Due Dates: In the *Second Louisiana Order*, the FCC held that BellSouth failed to provide parity in access to due dates because of delays in returning firm order

confirmations (FOCs) to the CLECs. *Second Louisiana Order,* ¶¶104-105. To address this issue, BellSouth has provided the Commission with performance data in the FCC data format demonstrating that it met the applicable benchmarks for returning firm order confirmations (electronic, partially mechanized, and manual) in both April and May of 2001. *See* Supplemental Exhibit AJV-2, pp. 16-17.

The FCC also expressed an intent to examine BellSouth's automatic due date calculation capability in any future application. *Second Louisiana Order,* ¶106. BellSouth now provides an automatic due date calculation functionality in LENS and TAG. *Stacy Affidavit,* ¶155.

AT&T is the only commentator that raised concerns about BellSouth's access to due dates. AT&T claims that the due date calculator provides the wrong date and that for some products, no due date is calculated. *Bradbury Affidavit,* ¶¶30-31. In response, BellSouth states that it has encountered problems with its release of functionality for the calculation of due dates for resale services that did not require dispatches and for SL1 loops with LNP and SL2 loops with LNP. BellSouth further stated that it is working swiftly to "fix those problems." *Stacy Reply Affidavit,* ¶74. In its proposed recommendation, Staff instructed BellSouth to inform it of the status of its efforts to resolve any problems associated with the above described release. Further, BellSouth has explained the situations in which no due date is calculated. *Id.* at ¶75. Staff instructed BellSouth to provide further comment regarding why no due date can be calculated in such situations and/or whether there exists any system change that could provide such due date information to CLECs. BellSouth provided detailed responses to Staff's inquires. *See* BellSouth Comments, pp.11-12. Staff is satisfied that BellSouth is adequately addressing the issues concerning due date calculations and does not believe intervention in this area is presently warranted.

Additionally, AT&T witness makes various allegations regarding the adequacy and completeness of response times and the measurements used to measure responses. *Bradbury Affidavit*, pp. 29-31. Staff is satisfied that the performance measures adopted in this area are appropriate. *See* General Order dated May 14, 2001. Moreover, an analysis of the sub-metrics associated with the two subcategories (Pre-Ordering and Maintenance & Repair) within OSS indicates that BellSouth exhibited strong overall OSS performance in both April and May by meeting 82.7% (67 of 81) of the measurements with CLEC activity in April and 91.5% (75 of 82) in May. In June, BellSouth met 90.4% (75 of 83) of all OSS category measurements with CLEC activity. Relative to the Pre-Ordering portion, BellSouth demonstrated exceptional performance by meeting 87.2% (34 of 39) of measurements with CLEC activity in April and improving to 95% (38 of 40) in May. Relative to Pre-Ordering, BellSouth continued exceptional performance by meeting 95% (38 of 40) of the measurements. Relative to the Maintenance & Repair portion, BellSouth improved its results from 78.6% (33 of 42) of measurements met in April to 88.1% (37 of 42) met in May. In June, BellSouth's performance in this subcategory dropped slightly to 83.8% (31 of 37) of the measurements. Staff believes that BellSouth has demonstrated strong performance in this area.

d. xDSL – Capable Loops: For pre-ordering of xDSL-capable loops, BellSouth offers CLECs nondiscriminatory access to actual loop make-up information ("LMU") through electronic[9] and manual processes. *Latham Affidavit*, ¶ 28-30; *Stacy Affidavit*, ¶ 166-171; *see also SWBT-KA/OK Order*, ¶ 122; *SWBT-TX Order*, ¶ 165. Manual loop qualification is available when BellSouth's electronic records do not have LMU for a particular loop. *Latham Affidavit*, ¶ 28. The loop make-up process provides CLECs with access to detailed information

[9] Electronic access to loop make-up information is available through the TAG pre-ordering interface and the LENS interface.

regarding the suitability of particular loops for xDSL services, including loop length, cable length by gauge, quantity of load coils, location of load coils, quantity of bridged tap, and location of bridged tap. *Latham Affidavit*, ¶28; *Stacy Affidavit*, ¶169. Loop make-up information is contained in the Loop Facility Assignment and Control System (LFACS).

This Commission recently adopted a performance measure for access to Loop make-up information, Loop Make-up Inquiry (Manual and Electronic). These two categories contain one measurement each at the state level and are listed in BellSouth's MSS Report under General – Pre-Ordering. The results were 1 of 1 in April and 1 of 2 in May (with the one miss based on 1 CLEC activity in May). There was no CLEC activity in June relative to Item F.2.11, General Pre-Ordering. Staff will continue to monitor performance in this area.

In addition, BellSouth also offers its Loop Qualification System (LQS) to Network Service Providers to enable them to inquire as to whether POTS lines will carry BellSouth's wholesale ADSL service. While the information is not guaranteed, CLECs also have electronic access to LQS to enable them to obtain certain loop qualification information that they can use to provide whatever type of xDSL service they desire. *Stacy Affidavit*, ¶ 172. LQS provides the CLEC with an unguaranteed response as to whether an existing telephone number is served by a loop that will support ADSL service. *Id.*

BellSouth represents that CLECs have access to the same information as BellSouth's retail operations, in the same manner and within the same time frames. *Latham Affidavit*, ¶ 28; *Stacy Affidavit*, ¶ 166. Further, in February 2001, CLECs made 4,556 electronic queries for LMU. Of those queries, 99.93% were answered within 5 minutes. Although BellSouth's performance in this area is particularly noteworthy, the requirements imposed by the FCC regarding access to LMU data are much broader than that claimed by BellSouth. Although

BellSouth may provide to CLECs the same LMU data that BellSouth's retail operations utilize, BellSouth is required to provide *all* LMU data that exists anywhere in BellSouth's systems or files, regardless of whether its retail unit can or cannot utilize the data:

> 426. ...[T]he preordering function includes access to loop qualification information. Loop qualification information identifies the physical attributes of the loop plant (such as loop length, the presence of analog load coils and bridge taps, and the presence and type of Digital Loop Carrier) that enable carriers to determine whether the loop is capable of supporting xDSL and other advanced technologies. ...
>
> 427. We clarify that pursuant to our existing rules, an incumbent LEC must provide the requesting carrier with nondiscriminatory access to the same detailed information about the loop that is available to the incumbent, so that the requesting carrier can make an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install. Based on these existing obligations, we conclude that, at a minimum, incumbent LECs must provide requesting carriers the same underlying information that the incumbent LEC has in any of its own databases or other internal records. For example, the incumbent LEC must provide to requesting carriers the following: (1) the composition of the loop material, including, but not limited to, fiber optics, copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. Consistent with our nondiscriminatory access obligations, the incumbent LEC must provide loop qualification information based, for example, on an individual address or zip code of the end user in a particular wire center, NXX code, or on any other basis that the incumbent provides such information to itself.
>
> 428. In addition, we agree with Covad that an incumbent LEC should not be permitted to deny a requesting carrier access to loop qualification information for particular customers simply because the incumbent is not providing xDSL or other services from a particular end office. We also agree with commenters that an incumbent must provide access to the underlying loop information and may not filter or digest such information to provide only that information that is useful in the provision of a particular type of xDSL that the incumbent chooses to offer.

In its proposed recommendation, Staff instructed BellSouth to confirm through an affiant that it provides CLECs with access to all LMU data on loops existing within the state of Louisiana and the manner and processes by which CLECs can access such data. Staff noted that issues concerning the availability of LMU data, as well as the appropriate cost-based rates for access to such data is presently pending in Docket U-24714-A. *See* Proposed Recommendation, p.47. In response BellSouth did confirm through an affiant that it provides access to all loop makeup data in Louisiana. If BellSouth has electronic access to such information, it provides CLECs electronic access as well. All other such information is available via the manual loop makeup process. *See* BellSouth comments, p. 12; Stacey Affidavit, ¶¶ 19-32. With this additional information, Staff is satisfied that BellSouth meets the FCC's requirements regarding availability of loop makeup data.

On page 5 of its comments, Sprint claims that permitting BellSouth to file an affidavit to address Staff's issues regarding the availability of loop make up data to CLECs raises a "serious due process issue." Staff certainly did not intend to deny any party the opportunity to comment regarding any of BellSouth's filings. Indeed, throughout this proceeding, Staff has been receptive to reasonable requests for leave to file comments. Further, Sprint did not make any claims regarding this issue prior to Staff issuing its proposed recommendation. Finally, given that BellSouth carries the burden of proof regarding compliance with all requirements of section 271 of the 1996 Act, it is appropriate that it should be given full opportunity to comment.

Nevertheless, Sprint does provide certain comments regarding BellSouth's procedures for providing loop makeup data that warrants a response from Staff. First, Sprint claims that the "LFACS database is currently inadequate because all BellSouth locations are not completely loaded into the database." Sprint Comments, p.6. Contrary to Sprint's claims, BellSouth is not

required to load all loop makeup data into an electronic database. Rather, BellSouth must provide electronic access to all such data that is available electronically. In this proceeding, BellSouth has shown that it does. Further, Sprint claims that there is no reliable or efficient means to obtain the FRN/RESID electronically from BellSouth. *Id.* This appears to be a new issue Sprint is raising but does not appear to rise to the level of affecting compliance with any checklist item. Staff requests that Sprint raise this issue in an arbitration or complaint proceeding so that a more complete record can be developed prior to any resolution by the Commission.

2. Ordering Functions

Ordering and provisioning are the processes whereby a CLEC requests facilities or services from BellSouth and then receives information, such as a reject or a confirmation that the order has been accepted. 47 U.S.C. §51.5. In general, in evaluating this item, the FCC looks primarily at the applicant's ability to return order confirmation notices, order reject notices, order completion notices and jeopardizes and its order flow through rate. *Kansas/Oklahoma*, ¶135. In the *Second Louisiana Order*, the FCC found that BellSouth failed to provide CLECs with timely access to order rejection notices, average installation intervals, order completion notices, and order jeopardy notices. *Second Louisiana Order*, ¶117. In addition, it criticized BellSouth's flow through data.

In reviewing BellSouth's performance data concerning access to OSS, as well as other checklist items, Staff is cognizant of the guidelines and framework that the FCC has established for reviewing such data:

> We emphasize that we generally look at the totality of the circumstances in analyzing the OSS ordering functions. Performance disparity in one measurement or submeasurement is unlikely to result in a finding of checklist noncompliance, unless the disparity is dramatic, or absent additional evidence of competitive impact. We review each individual measurement as one part of a larger picture that informs our determination of checklist compliance or non-compliance.

Kansas/Oklahoma Order, ¶136. Indeed, the FCC has recognized that it is simply unrealistic and, indeed, unfair to require a BOC to meet all of the measurements all of the time:

> We find that SWBT's overall performance meets the checklist requirements, even though some performance measurements indicate isolated problems for some types of unbundled loops. As explained below, we believe that the marginal disparities in some measurements are not competitively significant and do not show signs of systemic discrimination. Instead of faulting a BOC's showing for [a] checklist item, we believe such performance issues are better addressed through Performance Assurance Plan, targeted enforcement action, or carrier-initiated complaints under the Act or an interconnection agreement.

Kansas/Oklahoma Order, ¶181. In light of this framework, Staff will review BellSouth's performance data.

As Staff has previously noted, it will rely upon the performance data presented by BellSouth in this proceeding to determine whether BellSouth complies with the various requirements of Section 271 of the Act. An overall review of the UNE measures for Ordering, Provisioning, Maintenance and Repair and Billing indicates that BellSouth met the benchmark or retail analog for 84% and 81% of the measures during April and May 2001, respectively. While we believe this overall performance suffices for purposes of checklist compliance, Staff recommends that the Commission also direct BellSouth to work to improve its performance in certain areas. Staff believes that such improvement will occur as the result of implementation of the SEEMs plan set forth in the May 14, 2001 General Order, which Staff understands will apply to July performance data and going forward. Staff intends to closely monitor results in all categories during the 6-month review process in Docket No. 22252-C. Staff will pay particular attention to results in particular in certain categories, as discussed below and, in the event there is no improvement, Staff will consider and recommend further action. These categories include:

- Order Completion Interval (Resale and UNE-Provisioning)
- Reject Interval – Mechanized (Resale and UNE-Ordering)
- FOC & Reject Response Completeness – Mechanized (Resale and UNE-Ordering)
- FOC & Reject Response Completeness - Partially Mechanized (Resale and UNE-Ordering)
- % Flow Through Service Requests (General)
- For the UNE Loop/Port Combo product, also the % Provisioning Troubles within 30 Days and Average Completion Notice Interval
- For the xDSL product, also % Repeat Troubles within 30 Days

In its Proposed Recommendation, Staff directed BellSouth to provide its strategy for improving performance in the next three months in these categories. In response, BellSouth provided further information regarding improving performance on these measurements. *See* BellSouth Comments, pp. 12 et seq. This Commission will continue to review subsequent performance data in these areas during the six-month review of the SQPM Plan and, if necessary, take action prior to the conclusion of that review.

a. Order Confirmation Notices (FOCs): According to the MSS Reports, BellSouth met or exceeded the benchmarks for FOC Timeliness in all three categories: electronic, partially mechanized and manual. *See* Supplemental Exhibit AJV-2, pp. 16-17. Relative to FOC Timeliness, BellSouth met 21 of 22 benchmarks in April (*See* Supplemental Exhibit AJV-2, p. 23) (95.4% of the measures) and 24 of 27 of the measurements in May (*See* Supplemental Exhibit AJV-2, p. 17) with CLEC activity (88.9% of the measures). In June, BellSouth met 92.6% (25 of 27) of the benchmarks within all three categories of FOC timeliness (UNE/ordering).Staff commends BellSouth for this performance and expects to see it continue.